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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,643	10/29/1999	EDMUND COLBY MUNGER	00479.84602	6165

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EXAMINER

STRANGE, AARON N

ART UNIT PAPER NUMBER

2153

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/429,643		MUNGER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Aaron Strange		2153	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-20,22-24,26-42,44-51,53,68-70 and 98-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-20,22-24,26-42,44-51,53 and 98-102 is/are allowed.
- 6) ☒ Claim(s) 68-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 1/13/2005 have been fully considered but they are not persuasive. Claims 1, 2, 4-20, 22-24, 26-42, 44-51, 53,68-70, and 98-102 are pending.

2. With regard to claim 68, and Applicant's assertion that Basilico fails to teach that "the network address is used to route data packets over the network and is generated using an algorithm that selects the network address quasi-randomly from a plurality of network addresses that are each mapped to the receiving computer" (Page 13, Lines 21-23 of Remarks), the Examiner respectfully disagrees. Applicant further asserts that "the *Carmi* system teaches a predefined manner for selecting a routing header, where the packet header is selected by going down a fixed, predefined list in a particular unalterable order" (Page 13, Line 26 to Page 14, Line 4). It appears that Applicant is referring to the Basilico system in this statement and it has been treated as such. The Examiner respectfully disagrees with Applicant's assertion in this case as well.

The section cited by Applicant to allegedly provide support for this assertion (Basilico, Col 3, lines 24-28, 40-53, and Col 6, Lines 1-32) is not related to the selection of the network address. The section cited by Applicant relates to choosing a port from which to send the packet. The selection of the network address and appending of the header containing the network address is taught by Basilico (Col 5, Lines 15-36). The header is chosen according to the destination of the packet (Col 3, Lines 27-28). Since

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packets transmitted from a workstation are destined for quasi-random locations, the selection of a header based on the packet destinations is quasi-random.

3. With regard to claim 68, and Applicant's assertion that Carmi fails to teach "a network address for extraction by the receiving computer", the Examiner respectfully disagrees. The cited section of Carmi (Col 5, Line 64 to Col 6, Line 9) clearly shows that the source/destination addresses of data packets are compared to the address of an affiliated port. In order for the addresses to be compared, they must be extracted from the packet. No comparison can be performed unless the address is extracted for comparison. Therefore, Carmi teaches extracting a destination address from an incoming packet for comparison with an affiliated address.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 68-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basilico (US 6,243,360) in view of Carmi (US 5,311,593).

6. Basilico shows a method for a LAN switch routing a packet to a destination server by load balancing among the plurality of network interface cards belonging to one network server (see abstract and figure 1). Basilico shows:

A transmitting entity (switch, 10) that transmits data packets to a receiving computer (server) over a network, wherein the transmitting computer (10) comprises computer instructions that execute the step of, for each transmitted data packet, inserting into a header of the data packet a network address (server address), wherein the network address is used to route data packets over the network and is generated using an algorithm that selects the network address quasi-randomly from a plurality of network addresses that are each mapped to the receiving computer (selecting from among the plurality of network server addresses) (fig. 1 and 5B, col. 5 lines 15-36).

Although Basilico shows substantial features of the claimed invention, Basilico does not shows the network address for *extraction by the receiving computer*. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Basilico, as evidenced by Carmi.

In an analogous art, Carmi shows a secure communications network for checking data packet transmissions (see abstract). Carmi shows that a destination address is extracted from an incoming packet in order to compare the destination address with the address affiliated with the receiving entity (col. 5 lines 64- col. 6 lines 9).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Basilico

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to employ the features shown by Carmi in order to improve security of packet transmissions.

7. In referring to claim 69, Basilico shows the inserting of network address into the header portion of the packet (col. 5 lines 4-23).

8. In referring to claim 70, Basilico shows that the transmitting entity (10) transmits sufficient information to establish a valid network address (fig. 5A, col. 5 lines 40-60).

***Allowable Subject Matter***

9. Claims 1, 2, 4-20, 22-24, 26-42, 44-51,53 and 98-102 are allowed.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AS  
4/5/2005



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